MONTANA LEGISLATIVE HISTORY

Chapter 385 1997

Bill H _____ S 290 Original bill & history ____C

H. Committee on Business & Labor

Hearing Date(s) Mar 24 ✓ C

_____ ____C

_____ ____C

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Date Out _____ ____C

S. Committee on Labor & Employment Relations

Hearing Date(s) Feb 18 ✓ C

Feb 20 ✓ C

_____ ____C

_____ ____C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

2/21	REFERRED TO JUDICIARY		
3/11	REVISED FISCAL NOTE RECEIVED		
3/25	HEARING		
3/27	TABLED IN COMMITTEE		
	DIED IN COMMITTEE		

SB 290 INTRODUCED BY KEATING, ET AL. *LC0573 DRAFTER: MCCLURE*

REVISE THE WORKERS' COMPENSATION ADMINISTRATION FUND

2/06	INTRODUCED		
2/06	FIRST READING		
2/06	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
2/06	FISCAL NOTE REQUESTED (EXTENSION GRANTED FOR COMPLETION)		
2/14	FISCAL NOTE RECEIVED		
2/14	FISCAL NOTE PRINTED		
2/18	HEARING		
2/21	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/24	2ND READING PASSED	50	0
2/25	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
3/03	FIRST READING		
3/03	REFERRED TO BUSINESS & LABOR		
3/14	REVISED FISCAL NOTE RECEIVED		
3/14	REVISED FISCAL NOTE PRINTED		
3/24	HEARING		
4/03	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/07	2ND READING CONCURRED	82	15
4/07	3RD READING CONCURRED	82	17
	RETURNED TO SENATE WITH AMENDMENTS		
4/10	2ND READING AMENDMENTS CONCURRED	50	0
4/11	3RD READING CONCURRED AS AMENDED	50	0
4/18	SIGNED BY PRESIDENT		
4/20	SIGNED BY SPEAKER		
4/21	TRANSMITTED TO GOVERNOR		
4/24	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 385		
	EFFECTIVE DATE: 04/24/97—SECTIONS 1 & 4-8		
	EFFECTIVE DATE: 07/01/97—SECTION 3		
	EFFECTIVE DATE: 07/01/99—SECTION 2		

SB 291 INTRODUCED BY BROOKE, ET AL. *LC1084 DRAFTER: LANE*

INCLUDE SEXUAL ORIENTATION IN THE LAWS PROHIBITING MALICIOUS INTIMIDATION OR HARASSMENT BASED ON CIVIL OR HUMAN RIGHTS AND PROVIDE FOR SENTENCE ENHANCEMENT FOR MALICIOUS INTIMIDATION OR HARASSMENT BASED ON SEXUAL ORIENTATION

2/06	INTRODUCED
2/06	FIRST READING
2/06	REFERRED TO JUDICIARY
2/14	HEARING
2/19	TABLED IN COMMITTEE
3/03	MISSED DEADLINE FOR 45TH DAY TRANSMITTAL
	DIED IN COMMITTEE

SB 292 INTRODUCED BY GROSFIELD, ET AL. *LC1107 DRAFTER: STERNBERG*

ADDRESS BUDGETING PRIORITIES OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO PROVIDE THAT THE DEPARTMENT INVESTIGATE THE POTENTIAL OF USING FISH AND GAME LICENSE

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0290, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:
An act generally revising the workers' compensation administration fund; eliminating assessment funding to the Department of Commerce; clarifying those fees that are deposited to the administration fund.

ASSUMPTIONS:

1. Current law assessments are levied against Plan I employers' gross annual payroll for the preceding calendar year, Plan II insurers gross annual direct premiums collected in Montana during the preceding calendar year, and Plan 3 is assessed an amount sufficient to fund the direct costs and an equitable portion of the indirect costs of regulating Plan III.
2. This bill changes the funding methodology for the regulation of the workers' compensation and occupational disease acts from the current cost allocation procedures that distribute costs to plan I, II, and III to a new procedure utilizing a 2.15% mandatory assessment on workers' compensation benefits paid to claimants per calendar year.
3. Effective July 1, 1999, and applied retroactively to July 1, 1998, all plan I, plan II, and plan III carriers will be assessed 2.15% of all compensation and medical benefits paid during the preceding calendar year, except for medical benefits in excess of $200,000 per occurrence. The effect of this exclusion was indeterminable.
4. The assessment for FY98 and FY99 is based on the old methodology.
5. The percentage methodology, as defined in Section 2, is applied for the first time in state fiscal year 00 (July 1, 1999, through June 30, 2000). The revenue from the percentage methodology will be based on benefits paid during the preceding calendar year (1998 calendar year), billed on or about May 1, 1999, and total paid by December 31, 1999, to fund the FY2000 budget.
6. Assessments may be paid annually on or before June 30 or in two equal installments made on or before June 30 and December 31 of each year.
7. The statutory programs which the Department of Labor and Industry (DOLI) administers include the Occupational Safety and Health Administration (OSHA) program, the Mine Safety and Health Administration(MSHA) program, and the Occupational Statistics program. These will continue to be matched by workers' compensation administration funds.
8. The Department of Commerce (DoC) currently administers the boiler inspection program, which was transferred from the DOLI by HB 68 during the 1995 legislative session.

Department of Commerce:

9. This bill eliminates the worker's compensation administrative fund support for DoC's boiler inspections program without identification of a substitute source of funding or a commensurate reduction in boiler inspections required.
10. The boiler inspection programs FY98 and FY99 budget request as presented in the Governor's Executive Budget is the basis for the derivations of the fiscal impact of SB 290.

Department of Labor and Industry:

11. Data indicates (see table 1.) that total benefit payments are generally declining due to law changes from the recent legislative sessions.
12. Language in Section 1 of the bill, which increases the minimum assessment amount from $200 to $500 (Plan I and II), is estimated to augment the assessment in FY98 and FY99 by $48,000 annually.
13. All costs of administering the workers' compensation and occupational disease acts (direct and indirect costs) will continue to be funded by the workers' compensation administration fund.

(Continued)

Dave Lewis 2-14-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

2/14/97
TOM KEATING, PRIMARY SPONSOR DATE

State Fund:

14. Aggregate benefit payments during calendar year 1996 were $93,405,258. Projected aggregate benefit payments for CY 1997 are $92,465,353; for CY 1998 are $92,213,614; for CY 1999 are $93,933,553.
15. Historical Plan 3 assessments have been: FY 1996, $1,569,384: FY 1995, 2,159,608; FY 1994, $2,303,130.
16. Plan 3 assessment for FY 1997 is $1,474,582.
17. Projected assessments under current law are: FY 1998, $1,475,000; FY 1999, $1,500,000.
18. Projected assessments under proposed law would be: FY 1998, $1,475,000; FY 1999, $1,982,593.

FISCAL IMPACT:	FY98 Difference	FY99 Difference
Department of Labor and Industry:		
Revenues:		
WC Administration Fund (02)	48,000	48,000
Department of Commerce:		
Expenditures:		
Personal Services	108,621	110,878
Operating Expenses	60,009	59,886
Total	168,630	170,764
Revenues:		
Boiler Inspection Fees	100,000	100,000
Net Impact:		
Boiler Inspection(02)	(68,630)	(70,764)
State Fund:		
Net Impact:		
Administrative Assessment(6)	0	482,593

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

ASSUMPTIONS FOR THE LONG-RANGE EFFECTS:

Department of Labor and Industry

1. The workload for workers' compensation and occupational disease regulatory programs is not changed by this legislation. The workload associated with benefits paid to injured workers is only one segment of total work performed by regulatory programs funded with this assessment.
2. Data indicates that total benefit payments are generally declining due to law changes from the recent legislative sessions. (Please see table 1, which is constructed to show shortfalls that, although they do not occur at this time, are shown to demonstrate the financial implications of a 2.15% assessment.)
3. The 2.15% annual fixed assessment rate for workers' compensation administration fund will generate an annual assessment funding shortfall in the range of 27% in fiscal year 2000 and 31% in fiscal year 2001. (Please see table 2, which, although the 2.15% assessment does not occur at this time, demonstrates the financial implications of a 2.15% assessment.)
4. It is assumed that a 3% inflation rate will continue into FY00/FY01 for purposes of costs associated with oversight of the workers' compensation and occupational disease acts.
5. All costs of administering the workers' compensation and occupational disease acts (direct and indirect costs) will continue to be funded by the workers' compensation administration fund.
6. The 55th Legislature will need to provide guidance to the DOLI in determining what portions of the workers' compensation and occupational disease acts are to be eliminated or changed during FY99 in order to accommodate the reduced funding level in FY2000 resulting from an assessment based on 2.15% of benefits, or will adjust the percentage of assessments to fully fund the current statutory activities.
7. The impact to generated revenues because of the exemption granted in Section 2 b (ii) is unable to be determined.

(Continued)

State Fund:

8. The net impact to the State Fund in future years would be to increase operating expenses by $400,000 to $500,000 each year over what the State Fund paid in FY 1996 in administrative assessment under current law.

Department of Labor and Industry:

TABLE 1 (FISCAL YEARS)

			IMPACT OF PROPOSAL	
FISCAL YEAR	Total Benefits	WC Assessments-actual costs	If x 2.15%	Shortfall
1993	$169,369,071	$3,058,259	$3,641,435	$583,176
1994	$143,722,195	$3,745,805	$3,090,517	($655,288)
1995	$152,742,432	$3,944,799	$3,284,052	($660,747)
1996	$148,026,132	$3,623,108	$3,182,562	($440,546)

TABLE 2 (CALENDAR YEARS for the Benefits Paid)

CALENDAR Yr	Total Benefits per CALENDAR YR	WC Assessments-FY costs	If x 2.15%	Shortfall
1996	$137,620,989	$3,623,108	$2,958,851	($664,257)
1997	$138,500,000	$3,676,000 estimated	$2,977,750	($698,250)
		The following is based on funding levels as submitted to 55th Legislature for FY98 and FY99, pay plan included, but not including the Dept of Commerce's 02455 request.		
1998	$135,600,000	$3,676,208	$2,915,400	($760,808)
1999	$132,400,000	$3,696,672	$2,846,600	($850,072)
		The expenditures assume a 3% inflation rate.		
2000	$129,400,000	$3,807,572	$2,782,100	($1,025,472)
2001	$126,200,000	$3,921,800	$2,713,300	($1,208,500)

TECHNICAL NOTES:

Department of Labor and Industry:

1. Section 3 (2) is confusing, rather than to taxes collected on or after June 30, 1998, the phrase should state to benefits paid after calendar year 1997.
2. The obligation as stated in Section 3 (1) would be less ambiguous if the wording were " taxes due on or after June 30, 1997".
3. It is unclear if rehabilitation benefits are included in the understanding of benefits paid.

Department of Commerce:

4. The boiler inspection fees established in 50-74-219, MCA, needs to be increased to adequately support the entire cost of the boiler inspection program. Amendments to SB 290 have been prepared by the department which would correct the funding shortfall by either increasing fees in statute or by providing the DOC with the authority to set fees by administrative rule.
5. In order to fully support the boiler inspection program, fees would need to be increased (either by statute or by rule) as follows:

Type Fee	Old Fee	New Fee
Operating Certificate	$20.00	$26.00
Internal Inspection	$40.00	$75.00
Hot Water Heating & Supply	$15.00	$30.00
Steam Heating	$20.00	$40.00
Power Boiler	$30.00	$55.00

6. If boiler inspection fees are not increased in statute, or the DOC given authority to do so by rule, the bureau will only be able to inspect approximately ½ of the boilers (1,000 vs 1,900) required to be inspected annually under current law. Annual expenditures would have to be reduced to approximate annual revenues and boilers would consequently go uninspected.

(Continued)

State Fund:

7. Section 2 (b)(ii) refers to occurrences which are exempt from assessment. The term "occurrences" needs clarification.
8. Section 1 and Section 2 redefine fees as taxes. The State Fund has previously been exempted from paying taxes (e.g., premium taxes and corporate income taxes).
9. The State Fund has assumed Section 2 is effective 7/1/98. However, Section 3 of SB 290 is unclear whether the effective date of Section 2 is 7/1/98 or 7/1/99. If the effective date is 7/1/99, there is no fiscal impact to the State Fund until the fiscal year ending 6/30/2000 as explained in the long-range effects.

DEDICATION OF REVENUE:
Department of Commerce

a) Are there persons or entities that benefit from this dedicated revenue that do not pay? (Please explain)
Under current law, boiler inspections are subsidized by the workers compensation administrative fund. SB 290 would remove this subsidy and without any amendment in the current fee schedule, reduce by almost half the number of boiler inspections required to be conducted annually. SB 290 should be amended to allow fees to be set commensurate with program costs.

b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?
Problems which might arise in connection with boiler inspections can be mitigated by resources funded directly boiler inspection fees rather than from the general fund.

c) Is the source of revenue relevant to current use of the funds and adequate to fund the program/activity that is intended? ____ Yes __XX No (if no, explain)
Under current law, boiler inspections are subsidized by the workers compensation administrative fund. SB 290 should be amended to allow fees to be set commensurate with program costs.

d) Does the need for this state special revenue provision still exist? __XX Yes ____ No (Explain)
Boiler inspection fees will be deposited in a new state special revenue account in the Department of Commerce.

e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please explain)
No. The legislature establishes spending authority for each biennium for dedicated revenue. The legislature also sets priorities when it considers Executive Budget priorities.

f) Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please explain)
Yes, provided the legislature continues to mandate the regulation and inspection of boilers.

g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)
State special revenue accounts typically maintain solvency by raising or lowering fees to keep funds commensurate with costs. As mentioned above, SB 290 should be amended to allow fees to be set commensurate with program costs.

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0290, third reading

DESCRIPTION OF PROPOSED LEGISLATION:
An act generally revising the workers' compensation administration fund; eliminating assessment funding to the Department of Commerce and providing substitute funding for the Boiler Inspection Program; clarifying those fees that are deposited to the administration fund; revising the method of assessment and the assessment base; revising the payment and collection requirements; providing for a workers' compensation regulation advisory council.

ASSUMPTIONS:

General:

1. Current law assessments are levied against Plan 1 employers' gross annual payroll for the preceding calendar year, Plan 2 insurers gross annual direct premiums collected in Montana during the preceding calendar year, and Plan 3 is assessed an amount sufficient to fund the direct costs and an equitable portion of the indirect costs of regulating Plan 3.
2. This bill changes the funding methodology for the regulation of the workers' compensation and occupational disease acts from the current cost allocation procedures that distribute costs to Plan 1, 2, and 3 to a new procedure utilizing a 2.6% mandatory assessment on workers' compensation benefits paid to claimants per calendar year.
3. Effective July 1, 1999, and applied retroactively to July 1, 1998, all Plan 1, Plan 2, and Plan 3 carriers will be assessed 2.6% of all compensation and medical benefits paid during the preceding calendar year, except for medical benefits in excess of $200,000 per occurrence. The effect of this exclusion was indeterminable.
4. The assessment for FY98/FY99 is based on the old methodology.
5. The percentage methodology, as defined in Section 2, is applied for the first time in state fiscal year 00 (July 1, 1999, through June 30, 2000). The revenue from the percentage methodology will be based on benefits paid during the preceding calendar year (1998 calendar year), billed on or about May 1, 1999, and total paid by December 31, 1999, to fund the FY00 budget.
6. Assessments may be paid annually on or before June 30 or in two equal installments made on or before June 30 and December 31 of each year.
7. The statutory programs the Department of Labor and Industry (DOLI) administers include the Occupational Safety and Health Administration (OSHA) Program, the Mine Safety and Health Administration(MSHA) Program, and the Occupational Statistics Program. These will continue to be matched by workers' compensation administration funds.
8. The Department of Commerce (DoC) currently administers the boiler inspection program, which was transferred from the DOLI by HB 68 during the 1995 Legislative Session.

Department of Commerce:

9. This bill eliminates the worker's compensation administrative fund support for the Department of Commerce (DoC) Boiler Inspections Program and establishes a state special revenue account for the administration of boiler inspections.
10. The boiler inspection fee schedule is changed to mandate fees that are commensurate with program costs. There is no fiscal impact to DoC.

Department of Labor and Industry:

11. Data indicates (see table 1) that total benefit payments generally are declining due to law changes from the recent past legislative sessions.
12. Language in Section 1 of the bill, which increases the minimum assessment amount from $200 to $500 (Plan 1 and 2), is estimated to augment the assessment in FY98 and FY99 by $48,000 annually.

(Continued)

Dave Lewis 3.14.97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Keating 3/14/97
TOM KEATING, PRIMARY SPONSOR DATE

SB 290 #2

13. All costs of administering the workers' compensation and occupational disease acts (direct and indirect costs) will continue to be funded by the workers' compensation administration fund.
14. The Workers' Compensation Advisory Council will have twelve (12) members.
15. The Workers' Compensation Advisory Council will meet twelve times a year.
16. Each board member is entitled to a $50 per diem and reimbursement for travel, lodging, and meals, at state rates. Assuming $150 per board member per meeting in costs including per diem, this will mean annual expenditures for the council will total $21,600 each year of the biennium.

State Fund:

17. Aggregate benefit payment projection for CY 1998 are $76,550,000; for CY 1999 are $78,001,250.
18. Historical Plan 3 assessments have been: FY 1996, $1,569,384: FY 1995, 2,159,608; FY 1994, $2,303,130.
19. Plan 3 assessment for FY 1997 is $1,474,582.
20. Projected assessments under current law are: FY 1998, $1,475,000; FY 1999, $1,500,000.
21. Projected assessments under proposed law would be: FY 1998, $1,475,000; FY 1999, $2,028,033.

FISCAL IMPACT:

Department of Labor and Industry:

	FY98 Difference	FY99 Difference
Expenditures		
Council Operating	$21,600	$21,600
Funding (02)	$21,600	$21,600
Revenues:		
WC Administration Fund (02)	$48,000	$48,000
Net Impact: (revenue minus expense)		
WC Administration Fund (02)	$26,400	$26,400
State Fund:		
Net Impact:		
Administrative Assessment(06)	0	$528,033

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

ASSUMPTIONS FOR THE LONG RANGE EFFECTS:

Department of Labor and Industry:

1. The workload for workers' compensation and occupational disease regulatory programs is not changed by this legislation. The workload associated with benefits paid to injured workers is only one segment of total work performed by regulatory programs funded with this assessment.
2. Data indicates that total benefit payments generally are declining due to law changes from the recent legislative sessions. (Please see Table 1, which is constructed to show shortfalls that, although they do not occur at this time, are shown to demonstrate the financial implications of a 2.6% assessment.)
3. The 2.6% annual fixed assessment rate for workers' compensation administration fund will generate an annual assessment funding shortfall in the range of 4% in fiscal year 2000 and 8% in fiscal year 2001. (Please see Table 2, which, although the 2.6% assessment does not occur at this time, demonstrates the financial implications of a 2.6% assessment.)
4. It is assumed that a 3% inflation rate will continue into FY00/FY01 for purposes of costs associated with oversight of the workers' compensation and occupational disease acts.
5. All costs of administering the workers' compensation and occupational disease acts (direct and indirect costs) will continue to be funded by the workers' compensation administration fund.

(Continued)

6. The 55th Legislature will need to provide guidance to the DOLI in determining what portions of the workers' compensation and occupational disease acts are to be eliminated or changed during FY99 in order to accommodate the reduced funding level in FY2000 resulting from an assessment based on 2.6% of benefits, or will adjust the percentage of assessments to fully fund the current statutory activities.
7. The impact to generated revenues because of the exemption granted in Section 2(b)(ii) is unable to be determined.

State Fund:

8. The net impact to the State Fund in future years would be to increase operating expenses by $500,000 to $600,000 each year over what the State Fund paid in FY 1996 in administrative assessment under current law.

Department of Labor and Industry:

TABLE 1 (FISCAL YEARS)		IMPACT OF PROPOSAL		
FISCAL YEAR	Total Benefits	WC Assessments-actual costs	If x 2.6%	Difference
1993	$169,369,071	$3,058,259	$4,403,596	$1,345,337
1994	$143,722,195	$3,745,805	$3,736,777	($9,028)
1995	$152,742,432	$3,944,799	$3,971,303	$26,504
1996	$148,026,132	$3,623,108	$3,848,679	$225,571

TABLE 2 (CALENDAR YEARS for the Benefits Paid)				
CALENDAR Yr	Total Benefits per CALENDAR YR	WC Assessments-FY costs	If x 2.6%	Difference
1996	$141,298,688	$3,623,108	$3,673,766	$50,658
1997	$143,500,000	$3,676,000 estimated	$3,731,000	$55,000
	The following is based on funding levels as submitted to 55th Legislature for FY98 and FY99, pay plan included, but not including the Dept of Commerce's 02455 request.			
1998	$142,300,000	$3,676,208	$3,699,800	$23,592
1999	$141,000,000	$3,696,672	$3,666,000	($30,672)
	The expenditures assume a 3% inflation rate.			
2000	$139,800,000	$3,807,572	$3,634,800	($172,772)
2001	$138,700,000	$3,921,800	$3,606,200	($315,600)

TECHNICAL NOTES:

Department of Labor and Industry:

1. Section 3 (2) is confusing, rather than to taxes collected on or after June 30, 1998, the phrase should state to benefits paid after calendar year 1997.
2. The obligation as stated in Section 3 (1) would be less ambiguous if the wording were " taxes due on or after June 30, 1997".
3. It is unclear if rehabilitation benefits are included in the understanding of benefits paid.
4. SB 375 requires that DOLI notify the three plans by March 31 of the amount of their respective subsequent injury fund (SIF) assessment. To determine the amount of the SIF assessment, the paid loss figures would be needed for administrative purposes by February 28 in order to determine the SIF assessment. Senate Bill 290 includes scheduling cycles for reporting of paid losses on March 31 of each year by Plan 1 self-insurers, Plan 2 private carriers, and the State Fund. These reporting schedules between the two bills need to be reconciled.

State Fund:

1. Section 2(b)(ii) refers to occurrences which are exempt from assessment. The term "occurrences" needs clarification.
2. Section 1 and Section 2 redefine fees as taxes. The State Fund has previously been exempted from paying taxes, i.e., premium taxes and corporate income taxes.
3. The State Fund has assumed Section 2 is effective 7/1/98. However, Section 3 of SB 290 is unclear whether the effective date of Section 2 is 7/1/98 or 7/1/99. If the effective date is 7/1/99, there is no fiscal impact to the State Fund until the fiscal year ending 6/30/2000 as explained in the long-range effects.

(Continued)

DEDICATION OF REVENUE:

a) Are there persons or entities that benefit from this dedicated revenue that do not pay? (Please explain)
Under current law, boiler inspections are subsidized by the workers compensation administrative fund. SB 290 as amended, revises the current fees schedule by mandating fees commensurate with program costs.

b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?
Problems which might arise in connection with boiler inspections can be mitigated by resources funded directly boiler inspection fees rather than from the general fund.

c) Is the source of revenue relevant to current use of the funds and adequate to fund the program/activity that is intended? XX Yes ____ No (if no, explain)
Under current law, boiler inspections are subsidized by the workers' compensation administrative fund. SB 290 as amended, revises the current fees schedule by mandating fees commensurate with program costs.

d) Does the need for this state special revenue provision still exist? XX Yes
____ No (Explain)
Boiler inspection fees will be deposited in a new state special revenue account in the Department of Commerce.

e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please explain)
No. The legislature establishes spending authority each biennium for dedicated revenue. The legislature also sets priorities when it considers executive budget priorities.

f) Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please explain)
Yes, provided the legislature continues to mandate the regulation and inspection of boilers.

g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)
State special revenue accounts typically maintain solvency by raising or lowering fees to keep funds commensurate with costs. As mentioned above, the boiler inspections are subsidized by the workers' compensation administrative fund. SB 290 as amended revises the current fees schedule by mandating fees commensurate with program costs.

than an assessment on the insurers instead of letting the Department set their own fee?

Mr. Wood responded if there is a reasonable way to assess a fee sufficient to cover the cost so that it is transferred someplace else, he would support it. He felt that the fee determined by the Department would have to pass the budget office and budget process in the legislature and therefore it would be a reasonable charge.

There was talk about a dollar amount which doesn't seem to satisfy this committee. Regarding the $10,000, **Mr. Wood** said he omitted the fact that if you read that section it says the Department "may". Section 39-71-519 gives the Department the right to compromise that.

Closing by Sponsor:

SEN. KEATING closed by stating there are a number of good things in this bill that he hopes the committee will do-pass. If there are some areas that need a little work, he is sure the committee will handle it.

HEARING ON SB 290

Sponsor: **SENATOR THOMAS KEATING, SD 5, Billings**

Proponents: **George Wood, Montana Self-Insurers' Association**
Pat Haffey, Department of Labor & Industry
Bob Worthington, Montana Municipal Insurance Authority (MMIA)
Allen Chronister, Montana Schools Group Risk Retention Program (MSGRRP)
Gary Weins, Montana Electric Cooperative's Association
Lance Melton, Montana School Board Association
Jim Brown, Department of Commerce
Don Waldron, Montana Rural Education Association
Mark Barry, State Fund
Jacqueline Lenmark, American Insurance Association (AIA)
Jack Holstrom, Montana Association of Counties

Opponents: **None.**

Opening Statement by Sponsor:

SEN. TOM KEATING, SD 5, Billings, said SB 290 revises the Workers' Compensation assessments. It is a simple bill and the assessment is based on the benefits paid rather than on premiums paid.

The Department and those who have requested the bill have worked out a percentage. Page 3, line 5 has a 2.15% and they are asking

to amend that figure to 2.6% of the benefits paid as the rate for assessment to the Department for their work overseeing this area.

Section 2 has an effective date of 7/1/99 so that the Department has time to adjust to this.

Section 1 will terminate 6/30/98 so they are coordinated. They will be asked to add an amendment to this bill and it has to do with establishing a regulation advisory council appointed by the Governor. Those amendments have been requested. This bill just changes the method of assessment for the Department and then establishes the council.

Proponents' Testimony:

George Wood, Executive Secretary, Montana Self-Insurers' Association, supported this bill as amended. One of the amendments is on page 3, line 5 where the 2.15% is stricken and 2.6% is added.

The other amendment will have to do with the effective date and the last pertains to the council setting the regulations. The principal effect of this bill is to simplify the assessment procedure that is used to raise the money that will fund the regulatory operations of the Department.

Presently, there is no reason for determining the equity between the three plans. This bill provides for a flat assessment of 2.6% on the benefits paid in the previous calendar year.

Benefits paid are defined as medical benefits, including hospitals and prescriptions and compensation paid. The limitation on medical benefits is to take care of catastrophic cases in the event that a case occurs which has a million dollars in medical payments. For the purpose of assessment only is limited to $200,000.

The present law requires cost accounting that assigns costs to one of the three plans and it is budgeted out in that manner. This does away with that, the Department gets the money and spends on the budget approved by the legislature and it does away with cost accounting which states you should come up with an equitable levy for direct and indirect costs.

Because of those costs there was a lawsuit against the Department in which judgement has been rendered that makes a change in what they must do.

At the present time we are sitting in a quandary with the Department levying under the old method but in a voluntary basis because they have no jurisdiction after the judgement to levy as they would normally. This corrects that problem.

Also, an employer can have a very large payroll and very small losses. When that happens a very disproportionate share is paid. It is actually an incentive for self-insurers to have as low accident rate as possible because this bill allows assessment based on losses.

Mr. Wood said this bill also simplifies and expedites the payment of the assessment. The Department now computes it, assesses it, and the payment comes towards the end or after the middle of the fiscal year. This would actually allow the Plan I, II, or III insurer to self-assess and pay it.

It calls for providing the pertinent data to the Department by March 31 and making one payment or half their total assessment on June 30, before the beginning of the next fiscal year or by December 31. This expedites the payment of the funds to the Department for their use in administration. He requests a do-pass on this bill.

Pat Haffey, Commissioner, Department of Labor & Industry supported SB 290. They support the methodology which is contained in the bill and also the 2.6% figure that they hope will be presented in amendment form.

They join all three insurance groups, the Governor's office, and others in supporting this. They fully support the amendment which calls for the Governor to appoint a Committee that will study the full function and scope of the Workers' Compensation regulatory system in the State of Montana. **(EXHIBIT 5)**

Bob Worthington, Programs Administrator, Montana Municipal Insurance Authority, (MMIA), supported SB 290. One of the most difficult processes the committee went through was trying to determine an appropriate cost allocation process with respect to the Department. They came up with a fee based on usage and then there was a great deal of negotiation among the committee relative to what that base should be. Getting to the base of paid losses was not an easy process but through compromise they were able to agree on the paid loss issue. It is a good compromise among all who are involved in paying for the assessment process and he requested passage of SB 290 as amended.

Allen Chronister, Montana Schools Group Risk Retention Program, (MSGRRP), said this program covers approximately 300 Montana school districts in all parts of the state and covers approximately 25,000 workers. This program has an extremely high payroll and under the current statute is assessed an extremely disproportionate share of the assessment, and has a very low loss which is paid.

Since June of 1992 **Mr. Chronister** has represented this program in the litigation of this assessment. They began by protesting the assessment which was imposed for two basic reasons. One was that

the Department's method of assessment did not comply with the statute.

Secondly, the Department had adopted an elaborate mechanism for enacting this assessment but had never complied with the Administrator Procedure Act to adopt it as a rule. They began in June of 1992 and in January of 1993 they finally got a hearing in front of the Department's hearing examiner. That hearing examiner rejected their challenge and they appealed to the Workers' Compensation court in September of 1993. In June of 1995 they received a decision from the Workers' Compensation court which upheld their position and held that the Department's assessment did not comply with the statute because the Department had not engaged in proper direct and indirect cost accounting as the current statute requires. The court ordered the Department to go back and adopt rules under the Administration Program Act which complied with the statute and to then recalculate the assessment since 1992 and give the school's group any refund for an assessment that was overcharged.

They are still waiting for that to be done. Since June of 1995, the Department has attempted twice to come up with rules which would satisfy the court's opinion. The first rules in June of 1996 went to a public hearing and as far as **Mr. Chronister** knows the Department abandoned that rule because they never heard about it again.

In December of last year, the Department again came up with some rules, distributed them informally, received comments and that is the last they heard of those. Neither set of the rules came anywhere close to complying with the court's order and it is **Mr. Chronister's** opinion based upon his involvement with this since June of 1996, almost five years now, that the Department is incapable of complying with the language in the current statute.

It is essential that the legislature change the statute and as **George Wood** has explained, this language in this bill is the most straight-forward, simple and equitable that anyone has been able to come up with. It will eliminate all the problems that they have been fighting with the Department about for the last almost five years. They support this bill.

Gary Weins, Assistant General Manager, Montana Electric Cooperatives' Association, supported SB 290. **(EXHIBIT 6)**

Lance Melton, Montana School Board Association, supported the bill as well as the amendments. He concurs with comments made by the previous proponents of this bill.

The fiscal note identifies the elimination of the money funded for the boiler inspection program and they think that is appropriate to the extent that they don't know if the administration fund should be funding it, but it should be

considered to fund it through some other means. The school districts have a lot of boilers.

James Brown, Chief of Building Codes Bureau, Department of Commerce, also supported SB 290 with amendments and stated they have a narrow interest in the bill. **(EXHIBIT 7)**

Don Waldron, Montana Rural Education Association, said the school districts he represents probably have the largest payroll for the towns where they are located. They use Workers' Compensation very little so they support this bill because they believe it will help them and their premiums. They support SB 290.

Mark Barry, State Fund, said they support SB 290 with the amendments.

They would like to see two other changes to the bill. In Section 1, part (c) the word "fees" have been changed to "taxes" and they would like to see that changed back. He said they do not want to start paying taxes.

Also, Section 2, part (c) they would like to see the same change.

Jacqueline Lenmark, American Insurance Association, (AIA), also supported this legislation. They will be requesting a friendly amendment to the bill to raise the assessment percentage to 2.6.

They are in agreement that the effective date that is currently shown on the bill needs to be corrected, not the intent of that particular section but the way it is drafted.

They are in support of the amendment which is requested by the Department of Commerce as well as the Department of Labor's requested amendment to create a council to further study the regulatory functions of the Department. They ask for a do-pass recommendation.

Jack Holstrom, Montana Association of Counties, supported this bill as amended.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

SEN. SUE BARTLETT asked **Jacqueline Lenmark** in regard to the effective dates in reading the technical notes on the fiscal notes where it comments as well the difficulty in understanding what is intended by the retroactive applicability because it speaks to taxes collected on or after, is not the whole point of the bill to do an assessment based on benefits paid? What is the retroactive applicability?

Ms. Lenmark responded the assessment will be based on the benefits paid in a calendar year. The benefits for the calendar year will be calculated and reported to the Department on March 31 following the end of the calendar year. The first payment based on that calendar year's benefits will be paid June 30. If the insurer elects two payments then half of the payment will be due June 30 and the second half the following December 31st. That effectively moves up the payment of this assessment to the Department.

Currently, they are being assessed in November for a period that reaches back to July 1 and then goes to the following July 1 for the fiscal year. The Department is waiting for its payment. The new method will time the payment with the beginning of the Department's fiscal year. When the amendment is drafted, there will be no language regarding retroactivity.

The transitioning from the current method to the new method is what has created the problem. **Eddye McClure** has been working with them to make sure that is correctly drafted. We should see language clarifying the tax years that each particular method relates to so that it is clear.

The other critical thing about the effective date is that they do not intend for this new method to go into place until July 1, 1999. That is to give the Department an opportunity to look at its budget and make adjustments if necessary and also to recognize that its current budget is being acted upon in this legislative session. It will be funded as it has been in the past by the old type of assessment against the insurers.

{Tape: 2; Side: B; Approx. Time Count: 5:08 p.m.}

Closing by Sponsor:

SEN. KEATING closed by stating the committee would make a lot of people happy if they passed SB 290.

(NOTE: THE COMMITTEE TOOK A 9 MINUTE BREAK BEFORE HEARING SB 350, SEN. KEATING RESUMED HIS POSITION AS CHAIRMAN)

HEARING ON SB 350

Sponsor: **SENATOR WALTER MCNUTT, SD 50, Sidney**

Proponents:
David Owen, Montana State Chamber of Commerce
Riley Johnson, National Federation Independent Business, (NFIB)
Jamie Neer, Jamie's Auto Body Shop
Kathleen Schulte, Northern Montana Association of Realtors
John Shontz, Montana Association of Realtors
Carol Phillips, Representing Self
Punky Darkenwald, Representing Self

Department of Labor and Industry
Regulatory Administrative Assessment

Functions and Costs Fiscal Year 1996 and Fiscal Year 1997

Functions:	1996 Actual	1997 Budget
Legal Functions:		
Workers' Compensation Court	$339,773	$372,988
Hearings/Legal	249,967	294,550
Employment Relations Division - Administration	289,085	321,396
Special Projects	(3,823)	0
Claims Assistance Bureau:		
Claim Management	250,143	345,035
Data Ananlysis	280,636	288,082
Rehabilitation - Dept. Of Labor	17,585	0
Mediation	344,344	376,772
Management Information System(A)	**617,391**	**347,635**
Claims Assistance Bureau - Administration	82,675	90,797
Regulation Bureau:		
Medical Regulation(A)	**99,253**	**103,994**
Self Insurance Compliance - Plan I	125,021	151,532
Plan II Compliance (A)	**82,359**	**$78,201**
Independent Contractor Exemptions(A)	**95,316**	**0**
Trade Group Determination(A)	**2,162**	**2,203**
Underinsured Employers Fund(A)	**61,169**	**0**
Regulation Bureau - Administration	44,295	23,281
Safety Functions:		
Occupational Safety Statistics	51,596	47,400
Mandatory Inspections	246,394	284,476
On-Site Consultation (Federal Match)	12,115	14,518
Mining Inspections	198,972	223,956
Mine Training (Federal Match)	21,723	16,369
Safety Culture Act	54,430	37,408
Boiler/Crane Inspection(B)	**60,527**	**97,133**
Total Assessment	$3,623,108	$3,517,727

(A) - Costs related to functions addressed in SB 349
(B) - Costs related to functions addresses in SB 290

S. STATE LABOR & EMPLOYMENT
EXHIBIT NO. 5
DATE 2-18-97
BILL NO. SB349

SENATE LABOR & EMPLOYM
EXHIBIT NO. 6
DATE 2-18-97
BILL NO. SB 290

STATEMENT BEFORE THE
SENATE LABOR AND EMPLOYMENT RELATIONS COMMITTEE
FEBRUARY 18, 1997

IN SUPPORT OF
SB 290

Mr. Chairman, Members of the Committee, my name is Gary Wiens. I am assistant general manager of the Montana Electric Cooperatives' Association and, on behalf of our statewide organization, I rise in support of Senate Bill 290.

We support SB 290 because we believe it is legislation that is:

1) Based on the principle of fairness
2) Designed to reward companies and their employees companies for reducing costs by working safely.

As you may know, Montana's 26 electric cooperatives joined with Montana's telephone cooperatives and their subsidiaries in 1994 to become self-insured for workers' compensation. Our workers' compensation pool is known as METSPool, an acronym for the Montana Electric and Telephone Systems Self-Insured Workers' Compensation Pool.

Together, these 47 cooperatives and companies, all of which serve the people of rural Montana, provide workers' compensation coverage for approximately 900 employees. Our combined payroll in 1996 totaled more than $36 million.

And, thanks to a strong commitment to safety training and education, our self-insurance program has been very successful. Our yearly loss rate has been running at an average of 18 percent. This is considered a superb loss rate for any industry and certainly an excellent ratio for the telephone and electric industries.

These low number of losses have allowed our self-insurance pool to reduce insurance premium rates two years in a row. Moreover, at the end of this year, we expect to be able to issue dividends and, possibly, some type of monetary rewards to employees who maintain accident-free records.

By its very nature a self-insured workers' compensation program exists because of the excellent performance of its employees and companies. That is why we believe SB 290 should pass the Legislature and be signed into law. By requiring that state assessments be based on total benefits paid rather than total payroll, it further rewards self-insured programs that continue to perform well. SB 290, in essence, establishes a "pay-as-you-go" type of approach that assures only the cost causers will pay.

I should also mention that METSPool has under consideration a proposal to enlarge its spending on safety training and this bill provides a means by which additional funds for that purpose may be made available to our member cooperatives and companies.

Again, we urge your support for this legislation. By recommending passage of SB 290, we believe you will have voted for fairness and common sense.

Thank you again for the opportunity to comment.

EXHIBIT 7
DATE 2-18-97
BILL NO. SB290

MONTANA
DEPARTMENT OF COMMERCE

Building Codes Bureau
1218 East 6th Avenue, PO Box 200517
Helena, MT 59620-0517

Phone: (406) 444-3933
FAX: (406) 444-4240
TDD: (406) 444-2978

MEMORANDUM

TO: Senator Keating

FROM: James F. Brown, P.E. 5434
Chief, Building Codes Bureau

DATE: February 10, 1997

SUBJECT: SB 290 - Amendment

As requested, below is an explanation as to why the amendment we propose to SB 290 is needed.

The 1995 Legislature, in HB 68, transferred the boiler inspection program from the Department of Labor and Industry (DOLI) to the Building Codes Bureau of the Department of Commerce (Commerce). In HB 68 fees were established to support approximately 1/2 of the boiler inspection program costs with the other 1/2 supported by the workers compensation administration fund. Note - previous to HB 68, the entire boiler inspection program at DOLI was supported by the workers compensation administration fund - no boiler inspection fees.

Since SB 290 eliminates authorization for the workers compensation administration fund to pay Commerce for that portion of the boiler inspection program not supported by inspection fees, the State's boiler inspection program will be left without full support. Either the fees will have to be increased through SB 290 sufficient to support the entire boiler inspection program or the State will only be able to inspect approximately 1/2 of the boilers that are required to be inspected annually.

The amendment increases the boiler inspection fees found in 50-74-219, MCA, as needed to entirely support the costs of the boiler inspection program. State inspection of approximately 1,900 boilers annually plus issuance of a total of approximately 4,300 inspection certificates annually will raise approximately $172,000, which will support the State's boiler inspection program that has a budgeted cost of $168,630 in FY 98 and $170,764 in FY 99. A copy of the referenced amendment to SB 290 is attached.

Senate Bill No 290
Proposed Amendments by the Department of Commerce, Building Codes Bureau

1. Title, line 5
Following: "COMMERCE;"
Insert: "PROVIDING FOR SUBSTITUTE FUNDING FOR THE DEPARTMENT OF COMMERCE;"

2. Title, line 8
Following: "AMENDING"
Strike: "SECTION"
Insert: "SECTIONS"
Following: "39-71-201,"
Insert: " 50-74-219,"

3. Page 4
Following: line 9
Insert: "**NEW SECTION.** Section. 3. Section 50-74-219, MCA, is amended to read:

50-74-219. Fee for inspection. Whenever the department inspector inspects a boiler, a fee must be charged and collected by the department prior to issuance of an inspection certificate in accordance with the following schedule:

(1) operating certificate, ~~$20~~ $26;
(2) internal inspection, ~~$40~~ $75;
(3) external inspection:
(a) hot water heating and supply, ~~$15~~ $30;
(b) steam heating, ~~$20~~ $40; and
(c) power boiler, ~~$30~~ $55; and
(4) special inspection, $50 per hour plus expenses.

All fees must be deposited in a department state special revenue account for administration of the boiler inspection program.
Renumber: subsequent sections

4. Page 4
Following: line 14
Insert: (3) [Section 3] is effective July 1, 1997.

MONTANA SENATE
1997 LEGISLATURE
LABOR AND EMPLOYMENT RELATIONS COMMITTEE

ROLL CALL DATE 3-18-97

NAME	PRESENT	ABSENT	EXCUSED
SUE BARTLETT	✓		
STEVE BENEDICT	✓		
CASEY EMERSON	✓		
DALE MAHLUM			✓
DEBBIE SHEA	✓		
FRED THOMAS	✓		
BILL WILSON	✓		
JIM BURNETT, VICE CHAIRMAN	✓		
TOM KEATING, CHAIRMAN	✓		

SEN:1997
wp.rollcall.man
CS-09

DATE 2-18-97

SENATE COMMITTEE ON Labor

BILLS BEING HEARD TODAY: SB 353, SB325, SB349, SB290, SB350

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
Ronald W. Donael	Golden Sunlight Mine	325	Yes	
Joe Scrocchia	Asarco Grace Cement	325	Yes	
Jill Andrews	Montana Mining Assn	325	Yes	
John Petty	Cyprus America	325	yes	
Elton Chorney	Continental Lime Inc.	325	Yes	
Rick Dale	Golden Sunlight Mines	325	Yes	
MARK BARRY	State Fund	290 349	X	
Jacqueline Lenmark	Am. Ins. Assn	[redacted] 325 349, 290	X	350
John Shontz	MT. Ass Realtors	350	X	
Allen Chronister	MT. Schools Group	290 349	X	
Howard Barry	MT School Group	290 349	X	
Rich Shaffer	SIPS/SAM	290	X	
Alan Peterson	SAM	290	X	
Gayle Phillips	Self	350	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

DATE 2/16/97

SENATE COMMITTEE ON Labor

BILLS BEING HEARD TODAY: _____

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
Ronda Carpenter	Mt Housing Providers	SB350	X	
Sharon Hoff	Mt Catholic Conference	SB 350		X
Jane Lopp	Mt Human Rights Commission	SB350		X
Don Waldron	Mt Rural Ed Assn.	SB 350 / SB 290	X	X
Dan Judge	Mt State AFL-CIO	SB 349		
Jim Hill	St. of Montana DOL	SB 345	X	
Cathy Swift	self	SB 350		X
Jim Brown	Bldg Contractors Assn, Commerce	SB 290	X	
Debby Leadbetter	Self	SB350	X	
Diane Rice	Self	SB350	X	
Moe Wosepka	Kalispell Chamber	SB350	X	
Rodney Sweet	HRC	SB350		
Dick Pattison	MSCA	SB350		X
Don Allen	Allen & Associates	SB 350	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

DATE 2-18-97

SENATE COMMITTEE ON Labor

BILLS BEING HEARD TODAY: _____

_____

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No,	Check One: Support	Oppose
Alane Harkin	self	350		X
Punky Dorlenwald	1	350	X	
Don CHANCE	MT. BUILDING IND. Assc.	350	X	
Bob Gilbert	MT. PET. MARKETERS A.	350	X	
Lesa Putzeij	MAR	350	X	
Mick Rabinow	Govt Affairs	353		X
Russ Ritter	MRL	325	X	
George Wood		325-349 353-280	✓	
David Wurst	MT Chamber	353		✓
[illegible]	[illegible]	350	/	
Jack Manting	Helena S.F.A.	350		
Greg Panter	Dr Zoom's Auto Park	350	X	
Rob Armstrong	RoCo Auto	350	X	
Gary J Holly	Courtesy Body Shop	350	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

DATE 2-18-97

SENATE COMMITTEE ON Labor

BILLS BEING HEARD TODAY: _____

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< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Bill Worthington	MMIP	349 390	✓	
P.C. Musgrove	NMAR	350	✓	
Kathy Schultze	NMAR	350	✓	
Karen Hoar	NMAR	350	✓	
Karen Roche	NMAR	350	✓	
Jeff Bingaman	HRC	350		✓
Jack Galstron	MALO	349 390	✓	
Pat Hoffey	Dept of Labor	all		
Dean Condash	NAPA/Auto Parts	350	X	
Carl Swanson	Self-Student	SB353		X
Charles R Broutes	Billings Chamber	SB350	X	
Anne MacDonagh	Human Rights			✓
Jim Meldrum	Self	350		X
Bill Snoddy	McDonald Gold Project	325	X	

VISITOR REGISTER

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REGISTER.F10

DATE 2-18-97

SENATE COMMITTEE ON Labor

BILLS BEING HEARD TODAY: _____

_____

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
LANCE MELTON	MSBA	290	X	
PETER SULLIVAN	Myself	350	X	
Jan Schunk	"		X	
Christine Kaufmann	MT Human Rights Netw	350		X
Tom Hopgood	Lee Enterprises Inc	350	✓	
Jan Mandeville	Montana Telephone Assoc.	290	✓	
Mike Strand	Montana Independent Telecommunications Systems	290	✓	
Robert Rapp	Self	350		✓
Sue Fifield	MT Fair Housing	350		✓
CEDRIC BLACKEAGLE	MT. Fair Housing	350		✓
Jerry Driscoll	MT State Building Trades	349	X	
Gary Wiens	MT. Electric Coops Assn	290	X	
John Fitzpatrick	Pegasus Gold	325	X	

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REGISTER.F10

DATE 2/18/97

SENATE COMMITTEE ON Labor

BILLS BEING HEARD TODAY: _____

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Kate Cholewa CHOLEWA	MT Women's Lobby	350		✓
Greg Van Horssen	Montana Housing Coalition	SB 350	✓	
CANDACE TORGERSON	MT. RETAIL ASSN	SB 350	✓	
Steve Turtiewicz	MT Auto Dealers Assn	SB350	✓	
Riley Johnson	NFIB	SB 350	✓	
Gloria Paladichuk	Richland Dev	"	✓	
X Kathleen Schulte	NMAR 752-4313			
Margaret Morgan	MT Assn of Realtors	SB350	✓	

VISITOR REGISTER

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REGISTER.F10

DATE 2/18/97

SENATE COMMITTEE ON Labor

BILLS BEING HEARD TODAY: _____

_____

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Al Smith	MAP	350		X
Mary Westwood	SELF	350		X
Janice Doggett	Self	350		X
MIKE Mein	Self	350		X
Jim Meldrum	Self	350		X

VISITOR REGISTER

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REGISTER.F10

need to make that clear in the language, she is willing to work on amendments which may need to occur, given the timing in the House Committee, but I would guarantee those amendments would be taken care of. She asked for favorable consideration of the bill.

EXECUTIVE ACTION ON SB 353

Motion: SENATOR THOMAS MOVED TO TABLE SB 353.

Vote: Motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 325

Motion: SENATOR BENEDICT DO PASS ON SB 325.

Vote: Motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 290

Amendments: See (EXHIBIT 11 & EXHIBIT 12).

Motion: SENATE EMERSON MOVED DO PASS ON SB 290.

Discussion: CHAIRMAN KEATING stated the first amendment is a two-page amendment. In the lower right hand corner is the number 29005 and these are additions that are made. This is putting the regulation advisory council, it changes the percentage from 2.15% to 2.6%. That increases the assessment to increase the revenue to the Dept. of Labor the other new sections. He asked **Ms. Lenmark** to explain the new sections. **Jacqueline Lenmark** stated all these amendments are consensus amendments.

The first new section, section #3, is the creation of a Workers' Compensation Regulation Advisory Council. That amendment was requested by the Department of Labor and the other proponents of the bill had no objections to it. This is to allow the creation of advisory council to further study the regulatory functions of the Dept. of Labor.

Section 4 is there only because of an effective date of coordination problem. If you look at your original bill, the intent of this bill is to have the old assessment method operate for the next biennium and then on July 1, we go to the new assessment method. There is a report by insurers that is necessary before that new July 1 date, and so to allow the sections to be correctly codified and to come into effect and be terminated in the appropriate sequence, it was necessary to create this one new section. It will have limited duration; as soon as the new system is in effect, this section will terminate.

Section 5 is simply the codification instruction for the advisory council, and it codifies that language not in the Workers'

Compensation Act. The remaining amendments are to clarify the sequence of the assessment transition. We're working from one method on one base to a different sort of base going to a calendar year. That's necessary to identify which years the old method applied to and which years the new method will apply to.

CHAIRMAN KEATING stated the second amendment is 29001 in the lower right hand corner. Section 1 deletes the assessment payment to the boiler inspection bureau to cover half the cost of that boiler section program. That money is coming out of administrative assessment, administrative fees under the assessment. That's not an appropriate fund for paying for the inspection of boilers and so we're adding into this bill the boiler inspection fees and setting the fees at a level that will fund the program appropriately. The fees are in statutes so there isn't any ruling or authority to change those fees at any time.

Motion: **CHAIRMAN KEATING MOVED DO PASS ON AMENDMENT SB029001.AEM (EXHIBIT 11).**

Motion: **CHAIRMAN KEATING MOVED DO PASS ON AMENDMENT SB029005.AEM (EXHIBIT 12).**

SENATOR THOMAS asked **CHAIRMAN KEATING**, when was the last time these fees were changed?

CHAIRMAN KEATING responded the fees were not changed in the last session. This function was transferred from Labor to Commerce and it was agreed then that half of the cost would come out of this assessment and the fees would pick up the other half. He didn't think the fees were changed.

John Mahoney of the Safety Bureau of Labor stated when the boiler function was transferred to Commerce, they increased the fees. He thought they just, in the last session, imposed those fees for an inspection.

CHAIRMAN KEATING said the choice here is to make the Workers' Comp Insurance people pay for inspections for boilers or make the people with the boilers pay for the inspections themselves.

SENATOR BENEDICT stated the Plan 1's and Plan 2's can afford it.

CHAIRMAN KEATING responded that's a matter of opinion. At any rate we heard the budget in the Department of Commerce and they can't do the program on the fees that are there and if you want the boiler inspection program they're going to have charge the fees in order to run the program. It has to be covered one way or the other. He thought those who are benefiting from boiler inspections would be willing to pay the fees so they can operate their boiler. If you aren't licensed or don't have a licensed boiler inspector or if your boiler is not inspected periodically

you can't operate it, under the law. If you can't operate it you've got a cold school or cold hospital or cold someplace in the winter time so he believed they would pay $26 or $30 dollars an hour for a couple of hours in order to be able to operate their boiler.

SENATOR MAHLUM asked how many of these fees are going to be charged to one place? For instance, will they have an external inspection and an internal and a hot water heating supply and a steam heating and a power boiler all at the same time?

CHAIRMAN KEATING responded he couldn't answer that. If nobody is comfortable with this, we can just vote it down.

Vote: **Motion DO PASS ON THE AMENDMENTS CARRIED 5-4.**

Motion/Vote: **CHAIRMAN KEATING MOVED DO PASS SB 290 AS AMENDED. Motion CARRIED UNANIMOUSLY.**

{Tape: 2; Side: B; Approx. Time Count: 5:29 p.m.; Comments: N/A.}

EXECUTIVE ACTION ON SB 349

Amendments: See **(EXHIBITS 13 & 14)**.

Motion: **SENATOR EMERSON MOVED DO PASS ON AMENDMENT SB034901.AEM (EXHIBIT 13).**

Discussion: **SENATOR EMERSON** stated in some of the other bills we've gone to three years for a license and so he thought this ought to match. He said we'll strike 1 year and put in 3 years, we'll strike annually and put in every 3 years.

CHAIRMAN KEATING said this section of the law has been changed by SB 45, so if SB 45 survives, this will get done; however, if it doesn't survive it won't get done.

Vote: **Motion DO PASS ON AMENDMENT SB034901.AEM CARRIED 8-1.**

SENATOR THOMAS stated that a couple of these amendments [SB034908.AEM] can be segregated. He asked **Jim Hill** from the Department to explain the first two.

Jim Hill, Department of Labor explained the first amendment has to do with the conflict that exists when you share information out of our data base with insurers and the privacy issue. This amendment was created in an effort to specifically tell us what information we can share. That information is listed in this amendment as a result of our legal staff telling us this is the information we should be able to share with insurers. The last

EXHIBIT 11
DATE 2-20-97
BILL NO. SB290

Amendments to Senate Bill No. 290
First Reading Copy

Requested by Senator Keating
For the Senate Committee on Labor and Employment Relations

Prepared by Eddye McClure
February 18, 1997

1. Title, line 5.
Following: "COMMERCE"
Insert: "AND PROVIDING SUBSTITUTE FUNDING FOR THE BOILER INSPECTION PROGRAM"

2. Title, line 8.
STRIKE: "SECTION"
Insert: "SECTIONS"
Following: "39-71-201"
Insert: "AND 50-74-219"

3. Page 4.
Following: line 8
Insert: "**Section 3.** Section 50-74-219, MCA, is amended to read:
"50-74-219. Fee for inspection. (1) Whenever a department inspector inspects a boiler, a fee must be charged and collected by the department prior to issuance of an inspection certificate in accordance with the following schedule:
~~(1)~~(a) operating certificate, ~~$20~~ $26;
~~(2)~~(b) internal inspection, ~~$40~~ $75;
~~(3)~~(c) external inspection:
~~(a)~~(i) hot water heating and supply, ~~$15~~ $30;
~~(b)~~(ii) steam heating, ~~$20~~ $40; and
~~(c)~~(iii) power boiler, ~~$30~~ $55; and
~~(4)~~(d) special inspection, $50 per hour plus expenses.
(2) Fees collected under this section must be deposited in a department state special revenue account for administration of the boiler inspection program."
Renumber: subsequent sections

4. Page 4, line 10.
Strike: "4"
Insert: "5"

5. Page 4.
Following: line 14
Insert: "(3) [Section 3] is effective July 1, 1997."

EXHIBIT NO. 12
DATE 2-20-97
BILL NO. SB290

Amendments to Senate Bill No. 290
First Reading Copy

Requested by Senator Keating
For the Senate Committee on Labor and Employment Relations

Prepared by Eddye McClure
February 18, 1997

1. Title, line 8.
Following: "REQUIREMENTS;"
Insert: "PROVIDING FOR FORMATION OF A WORKERS' COMPENSATION REGULATION ADVISORY COUNCIL;"

2. Title, line 9.
Strike: "RETROACTIVE"

3. Page 1, line 26.
Page 3, line 1.
Strike: "taxes"
Insert: "fees"

4. Page 3, line 5.
Strike: "2.15%"
Insert: "2.6%"

5. Page 3, lines 22 and 23.
Strike: "June 30"
Insert: "July 1"

6. Page 4.
Following: line 8
Insert: "NEW SECTION. **Section 3. Workers' compensation regulation advisory council.** (1) There is created a workers' compensation regulation advisory council pursuant to 2-15-122 to review the state's workers' compensation regulatory system and make recommendations to the governor regarding:

(a) appropriate regulatory goals;

(b) necessary regulatory activities to meet identified goals; and

(c) appropriate and equitable funding levels and funding mechanisms to meet identified goals.

(2) The council must comprise a broad spectrum of parties who have a direct interest in workers' compensation issues and must include but is not limited to representatives of:

(a) workers' compensation insurers;
(b) insured and self-insured employers;
(c) organized labor;
(d) the Montana chamber of commerce;
(e) the Montana hospital association;
(f) the Montana medical association;
(g) the media;
(h) the department of labor and industry;
(i) the Montana senate;

(j) the Montana house of representatives;
(k) the public.
(3) The council shall seek broad input for their review, including but not limited to information regarding Montana's current regulation, national benchmarks, and other state regulatory schemes.

NEW SECTION. **Section 4. Required report.** For purposes of fees assessed on or after July 1, 1999, each plan No. 1 employer, plan No. 2 insurer, and plan No. 3, the state fund, shall file on March 31, 1999, in the form and containing the information required by the department of labor and industry a report of paid losses.

NEW SECTION. **Section 5. Codification instruction.** [Section 3] is intended to be codified as an integral part of Title 2, chapter 15, and the provisions of Title 2, chapter 15, apply to [section 3]."
Renumber: subsequent sections

7. Page 4, line 10.
Strike: "**retroactive**"
Following: "1"
Strike: "and 4"
Insert: ", 3 through 5, and 7"

8. Page 4, lines 11 and 12.
Following: "approval"
Strike: remainder of line 11 through "1997" on line 12

9. Page 4.
Following: line 12
Insert: "(2) [Section 1] applies to fees assessed on insurers on or before June 30, 1999."
Renumber: subsequent subsection

10. Page 4, lines 13 and 14.
Following: "effective"
Strike: remainder of line 13 through "1998" on line 14
Insert: "July 1, 1999, and applies to fees assessed on insurers on or after July 1, 1999"

11. Page 4, line 16.
Strike: "Section"
Insert: "Sections"
Following: "1"
Insert: "and 4"
Strike: "1998"
Insert: "1999"

SENATE STANDING COMMITTEE REPORT

February 21, 1997

MR. PRESIDENT:
We, your committee on Labor and Employment Relations having had under consideration Senate Bill 290 (first reading copy -- white), respectfully report that Senate Bill 290 be amended as follows and as so amended do pass.

Signed: _____
Senator Thomas F. Keating, Chair

That such amendments read:

1. Title, line 5.
Following: "COMMERCE"
Insert: "AND PROVIDING SUBSTITUTE FUNDING FOR THE BOILER INSPECTION PROGRAM"

2. Title, line 8.
Following: "REQUIREMENTS;"
Insert: "PROVIDING FOR FORMATION OF A WORKERS' COMPENSATION REGULATION ADVISORY COUNCIL;"
STRIKE: "SECTION"
Insert: "SECTIONS"
Following: "39-71-201"
Insert: "AND 50-74-219"

3. Title, line 9.
Strike: "RETROACTIVE"

4. Page 1, line 26.
Page 3, line 1.
Strike: "taxes"
Insert: "fees"

5. Page 3, line 5.
Strike: "2.15%"
Insert: "2.6%"

6. Page 3, lines 22 and 23.
Strike: "June 30"
Insert: "July 1"

Amd. Coord.
Sec. of Senate

7. Page 4.
Following: line 8
Insert: "**Section 3.** Section 50-74-219, MCA, is amended to read:

"**50-74-219. Fee for inspection.** (1) Whenever a department inspector inspects a boiler, a fee must be charged and collected by the department prior to issuance of an inspection certificate in accordance with the following schedule:

~~(1)~~(a) operating certificate, ~~$20~~ $26;
~~(2)~~(b) internal inspection, ~~$40~~ $75;
~~(3)~~(c) external inspection:
~~(a)~~(i) hot water heating and supply, ~~$15~~ $30;
~~(b)~~(ii) steam heating, ~~$20~~ $40; and
~~(c)~~(iii) power boiler, ~~$30~~ $55; and
~~(4)~~(d) special inspection, $50 per hour plus expenses.

(2) Fees collected under this section must be deposited in a department state special revenue account for administration of the boiler inspection program."

NEW SECTION. **Section 4. Workers' compensation regulation advisory council.** (1) There is created a workers' compensation regulation advisory council pursuant to 2-15-122 to review the state's workers' compensation regulatory system and make recommendations to the governor regarding:

(a) appropriate regulatory goals;
(b) necessary regulatory activities to meet identified goals; and
(c) appropriate and equitable funding levels and funding mechanisms to meet identified goals.

(2) The council must comprise a broad spectrum of parties who have a direct interest in workers' compensation issues and must include but is not limited to representatives of:

(a) workers' compensation insurers;
(b) insured and self-insured employers;
(c) organized labor;
(d) the Montana chamber of commerce;
(e) the Montana hospital association;
(f) the Montana medical association;
(g) the media;
(h) the department of labor and industry;
(i) the Montana senate;
(j) the Montana house of representatives;
(k) the public.

(3) The council shall seek broad input for their review, including but not limited to information regarding Montana's current regulations, national benchmarks, and other state regulatory schemes.

NEW SECTION. **Section 5. Required report.** For purposes of fees assessed on or after July 1, 1999, each plan No. 1 employer,

plan No. 2 insurer, and plan No. 3, the state fund, shall file on March 31, 1999, in the form and containing the information required by the department of labor and industry a report of paid losses.

NEW SECTION. **Section 6. Codification instruction.** [Section 4] is intended to be codified as an integral part of Title 2, chapter 15, and the provisions of Title 2, chapter 15, apply to [section 4]."
Renumber: subsequent sections

8. Page 4, line 10.
Strike: "**retroactive**"
Following: "1"
Insert: ","
Strike: "and"
Following: "4"
Insert: "through 6, and 8"

9. Page 4, lines 11 and 12.
Following: "approval"
Strike: remainder of line 11 through "1997" on line 12

10. Page 4.
Following: line 12
Insert: "(2) [Section 1] applies to fees assessed on insurers on or before June 30, 1999."
Renumber: subsequent subsection

11. Page 4, lines 13 and 14.
Following: "effective"
Strike: remainder of line 13 through "1998" on line 14
Insert: "July 1, 1999, and applies to fees assessed on insurers on or after July 1, 1999.
(4) [Section 3] is effective July 1, 1997"

12. Page 4, line 16.
Strike: "Section"
Insert: "Sections"
Following: "1"
Insert: "and 5"
Strike: "1998"
Insert: "1999"

-END-

HEARING ON SB 349

Opening Statement by Sponsor: **Senator Keating**, S. D. 5, introduced the bill. **EXHIBIT 1.**
{Tape: 1; Side: 1; Approx. Time Count: .01; Comments: None.}

Proponents Testimony:
Jacqueline Lenmark, American Insurance Assn.
{Tape: 1; Side: 1; Approx. Time Count: 4.9; Comments: None.}

George Wood, Ex. Dir. Mt. Self Insurers Assn.
{Tape: 1; Side: 1; Approx. Time Count: 15.7; Comments: None.}

Bob Worthington, MMIA
{Tape: 1; Side: 1; Approx. Time Count: 16.2; Comments: None.}

Ray Barnicoat, Montana Assn. of Counties
{Tape: 1; Side: 1; Approx. Time Count: 16.8; Comments: None.}

Howard Bailey, MT. School Groups
{Tape: 1; Side: 1; Approx. Time Count: 17.0; Comments: None.}

Mark Berry, State Fund
{Tape: 1; Side: 1; Approx. Time Count: 17.5; Comments: None.}

Chuck Hunter, MT Department of Labor
{Tape: 1; Side: 1; Approx. Time Count: 17.8; Comments: None.}

Opponents Testimony: None.

Questions From Committee Members and Responses:
{Tape: 1; Side: 1; Approx. Time Count: 21.5; Comments: None.}

Closing by Sponsor: **Senator Keating** closed. **Rep. Simon** to carry.
{Tape: 1; Side: 1; Approx. Time Count: 26.5; Comments: None.}

HEARING ON SB 290

Opening Statement by Sponsor: **Senator Keating**, S. D. 5, introduced the bill.
{Tape: 1; Side: 1; Approx. Time Count: 28.4; Comments: None.}

Proponents' Testimony:
George Wood, MT Self Insurers, Ex. Secretary
{Tape: 1; Side: 2; Approx. Time Count: 1.9; Comments: None.}

Bob Worthington, MMIA
{Tape: 1; Side: 2; Approx. Time Count: 5.4; Comments: None.}

Ray Barnicoat, MT Association of Counties
{Tape: 1; Side: 2; Approx. Time Count: 6.2; Comments: None.}

Howard Bailey, MT Schools Group
{Tape: 1; Side: 2; Approx. Time Count: 6.6; Comments: None.}

Jacqueline Lenmark, American Insurance Assn.
{Tape: 1; Side: 2; Approx. Time Count: 6.9; Comments: None.}

Jim Brown, Building Codes Division, Dept. of Commerce
{Tape: 1; Side: 2; Approx. Time Count: 8.5; Comments: None.}

Mark Berry, State Fund
{Tape: 1; Side: 2; Approx. Time Count: 8.9; Comments: None.}

Chuck Hunter, MT Dept. of Labor
{Tape: 1; Side: 2; Approx. Time Count: 9.3; Comments: None.}

Opponents' Testimony: None

Questions From Committee Members and Responses:
{Tape: 1; Side: 2; Approx. Time Count: 11.1; Comments: None.}

Closing by Sponsor: **Senator Keating** closed. **Rep. Simon** to carry.
{Tape: 1; Side: 2; Approx. Time Count: 26.4; Comments: None.}

HEARING ON SB 331

Opening Statement by Sponsor: **Senator Fred Thomas**, S. D. 31 introduced SB 331.
{Tape: 1; Side: 2; Approx. Time Count: 27.0; Comments: None.}

Proponents' Testimony:
Dave Richart,Vice Pres. of St. Peter's Hospital
{Tape: 2; Side: 1; Approx. Time Count: 6.7; Comments: None.}

Bob Olsen, MT Hospital Assn. EXHIBIT 2.
{Tape: 2; Side: 1; Approx. Time Count: 9.2; Comments: None.}

Nancy Butler, State Fund
{Tape: 2; Side: 1; Approx. Time Count: 15.7; Comments: None.}

George Wood, Ex. Secretary Mt. Self Insurers Assn.
{Tape: 2; Side: 1; Approx. Time Count: 17.0; Comments: None.}

Opponents' Testimony: None

Questions From Committee Members and Responses:
{Tape: 2; Side: 1; Approx. Time Count: 17.8; Comments: None.}

Closing by Sponsor:**Senator Thomas** closed. **Rep. Paul Sliter** to carry.
{Tape: 2; Side: 2; Approx. Time Count: 12.1; Comments: None.}

Opponents' Testimony: None

Questions From Committee Members and Responses:
{Tape: 1; Side: 2; Approx. Time Count: 21.7; Comments: None.}

Closing by Sponsor: **Sen. Devlin** closed. **Rep. Ewer** to carry.
{Tape: 1; Side: 2; Approx. Time Count: 31.9; Comments: None.}

HEARING ON SB 238

Opening Statement by Sponsor: **Senator Devlin,** S D 2 introduced the bill.
{Tape: 1; Side: 2; Approx. Time Count: 32.7; Comments: None.}

Proponents' Testimony:None

Opponents' Testimony: None

Informational Testimony:
Anna Miller, EXHIBITS 4 AND 5.
{Tape: 1; Side: 2; Approx. Time Count: 38.2; Comments: None.}

Questions From Committee Members and Responses:
{Tape: 2; Side:1; Approx. Time Count: .2; Comments: None.}

Closing by Sponsor: **Senator Devlin** closed.
{Tape: 2; Side: 1; Approx. Time Count: 12.0; Comments: None.}

EXECUTIVE ACTION ON SB 290

Motion: **Rep. Krenzler** moved do concur SB 290.
{Tape: 2; Side: 1; Approx. Time Count: 13.4; Comments: None.}

Motion/Vote: **Rep. Tropila** moved to adopt Tropila amendments. Motion carried 18-1.
{Tape: 2; Side: 1; Approx. Time Count: 15.7; Comments: None.}

Motion/Vote:**Rep.Tropila** moved do concur as amended. Motion carried roll call 10-9.
{Tape: 2; Side: 1; Approx. Time Count: 16.9; Comments: None.}

EXECUTIVE ACTION ON SB 379

Motion: **Rep. Devaney** moved do concur SB 379.
{Tape: 2; Side: 1; Approx. Time Count: 19.; Comments: None.}

HOUSE STANDING COMMITTEE REPORT

April 2, 1997

Mr. Speaker: We, the committee on **Business and Labor** report that **Senate Bill 290** (third reading copy -- blue) **be concurred in as amended.**

Signed: *Bruce Simon, Chair*

And, that such amendments read: **Carried by: Rep. Simon**

1. Page 5, line 17.
Strike: subsection (G) in its entirety
Renumber: subsequent subsections

-END-

Committee Vote:
Yes 10, No 9.

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